

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

HERSHEL O. McCALEB,)	
)	
Petitioner,)	
)	
v.)	Nos: 3:06-cr-139
)	3:10-cv-103
UNITED STATES OF AMERICA,)	(VARLAN/GUYTON)
)	
Respondent.)	

JUDGMENT ORDER

In accordance with the accompanying Memorandum, the motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 is **DENIED** and this action is **DISMISSED**. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is **DENIED**. The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this Court hereby **DENIES** the petitioner leave to proceed in forma pauperis on appeal.

E N T E R :

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

s/ Debra C. Poplin
CLERK OF COURT